

UNITED STATES DISTRICT COURT

for the
Eastern District of Virginia

Dewberry Engineers Inc.)	
)	
v.)	Case No.: 1:20-cv-610-LO-IDD
Dewberry Group, Inc. f/k/a Dewberry Capital)	
Corporation)	

BILL OF COSTS

Judgment having been entered in the above entitled action on 03/02/2022 against Dewberry Group, Inc.,
Date
the Clerk is requested to tax the following as costs:

Fees of the Clerk	\$ 595.00
Fees for service of summons and subpoena	0.00
Fees for printed or electronically recorded transcripts necessarily obtained for use in the case	1,735.65
Fees and disbursements for printing	
Fees for witnesses (<i>itemize on page two</i>)	207.36
Fees for exemplification and the costs of making copies of any materials where the copies are necessarily obtained for use in the case.	42,673.93
Docket fees under 28 U.S.C. 1923	40.00
Costs as shown on Mandate of Court of Appeals	0.00
Compensation of court-appointed experts	0.00
Compensation of interpreters and costs of special interpretation services under 28 U.S.C. 1828	0.00
Other costs (<i>please itemize</i>)	108,340.15
TOTAL	\$ 153,592.09

SPECIAL NOTE: Attach to your bill an itemization and documentation for requested costs in all categories.

Declaration

I declare under penalty of perjury that the foregoing costs are correct and were necessarily incurred in this action and that the services for which fees have been charged were actually and necessarily performed. A copy of this bill has been served on all parties in the following manner:

☒ Electronic service ☐ First class mail, postage prepaid

☐ Other: _____

s/ Attorney: Arthur E. Schmalz

Name of Attorney: Arthur E. Schmalz

For: Dewberry Engineers Inc. Date: 04/29/2022
Name of Claiming Party

Taxation of Costs

Costs are taxed in the amount of _____ and included in the judgment.

By: _____
Clerk of Court Deputy Clerk Date

Witness Fees (computation, cf. 28 U.S.C. 1821 for statutory fees)							
NAME , CITY AND STATE OF RESIDENCE	ATTENDANCE		SUBSISTENCE		MILEAGE		Total Cost Each Witness
	Days	Total Cost	Days	Total Cost	Miles	Total Cost	
Rodney J. Bosco	3	120.00	0	0.00	156	87.36	\$207.36
							\$0.00
							\$0.00
							\$0.00
							\$0.00
							\$0.00
					TOTAL		\$207.36

NOTICE

Section 1924, Title 28, U.S. Code (effective September 1, 1948) provides:
“Sec. 1924. Verification of bill of costs.”
“Before any bill of costs is taxed, the party claiming any item of cost or disbursement shall attach thereto an affidavit, made by himself or by his duly authorized attorney or agent having knowledge of the facts, that such item is correct and has been necessarily incurred in the case and that the services for which fees have been charged were actually and necessarily performed.”

See also Section 1920 of Title 28, which reads in part as follows:
“A bill of costs shall be filed in the case and, upon allowance, included in the judgment or decree.”

The Federal Rules of Civil Procedure contain the following provisions:
RULE 54(d)(1)
Costs Other than Attorneys’ Fees.
Unless a federal statute, these rules, or a court order provides otherwise, costs — other than attorney's fees — should be allowed to the prevailing party. But costs against the United States, its officers, and its agencies may be imposed only to the extent allowed by law. The clerk may tax costs on 14 day's notice. On motion served within the next 7 days, the court may review the clerk's action.

RULE 6
(d) Additional Time After Certain Kinds of Service.

When a party may or must act within a specified time after service and service is made under Rule5(b)(2)(C), (D), (E), or (F), 3 days are added after the period would otherwise expire under Rule 6(a).

RULE 58(e)
Cost or Fee Awards:

Ordinarily, the entry of judgment may not be delayed, nor the time for appeal extended, in order to tax costs or award fees. But if a timely motion for attorney's fees is made under Rule 54(d)(2), the court may act before a notice of appeal has been filed and become effective to order that the motion have the same effect under Federal Rule of Appellate Procedure 4(a)(4) as a timely motion under Rule 59.

**UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

DEWBERRY ENGINEERS INC.,

Plaintiff,

v.

DEWBERRY GROUP, INC. F/K/A
DEWBERRY CAPITAL CORPORATION,

Defendant.

Civil Action No. 1:20-cv-610-LO-IDD

**PLAINTIFF'S BILL OF COSTS ITEMIZATION
AND DOCUMENTATION**

Plaintiff Dewberry Engineers Inc., submits this itemization of its Bill of Costs totaling \$153,592.09 as directed by the attached Form AO 133, along with appropriate documentation (**Bill of Costs Exhibits 1 through 10**, which are authenticated in the respective declarations of Arthur Schmalz, Alan Croft, and Meghan Podolny filed in support of Dewberry's attorneys' fee petition). Plaintiff will separately file a Motion and a Brief containing the points and authorities in support of its request to be awarded all such costs.

Counsel for Dewberry hereby states, pursuant to Local Civil Rule 7(E), that a good-faith effort to narrow the areas of disagreement has been made. Accordingly, the column at the far-right side of the table below is modeled off of the categories in the E.D. Va. Cost Guidelines and notes whether the parties agree or disagree on any of the specified costs. Dewberry contemplates that Dewberry Group will make its position known in a separately filed opposition to any costs that it views as non-taxable.

[Itemization begins on next page]

Item	Amount	Plaintiff's Comments	Disagreement?
Fees of the Clerk	\$400.00	Filing Fee paid by McCandlish Lillard (Bill of Costs Exhibit (hereinafter "BOC Ex.") 1)	Agreed as to all
	\$195.00	Fee to obtain certified land records (BOC Ex. 2)	
Service Fees	\$0.00	N/A	
Marshal's Fees	\$0.00	N/A	
Fees of court reporter for all or any part of transcript necessarily obtained for use in the case	\$381.15	Pretrial Hearings: \$392.50 for July 30, 2021 hearing (Cross-Motions for Summary Judgment), which includes a payment fee that has been deducted from the total cost sought to be taxed (BOC Ex. 3)	Agreed as to all
	\$1,354.50	Trial: \$1,354.50 for three days of trial proceedings (Oct. 12–14, 2021) (BOC Ex. 4)	
Fees and disbursements for printing	\$0.00	N/A	
Fees of witnesses	\$207.36	Witness Rodney J. Bosco <ul style="list-style-type: none"> • Three days of attendance at \$40 daily for a total of \$120. • 26.1 miles each way at from Mr. Bosco's office at 11710 Plaza America Drive, Suite 800, Reston, VA 20190 to the U.S. District Court at 401 Courthouse Square, Alexandria, VA 22314, for a total of 156 miles at \$0.56 per mile for a total of \$87.36. See 28 U.S.C. § 1821; mileage rates available at https://www.gsa.gov/travel/plan-book/transportation-airfare-pov-etc/privately-owned-vehicle-pov-mileage-reimbursement-rates (BOC Ex. 5) 	Agreed as to all

Fees for exemplification and copies of papers necessarily obtained for use in case	Trial exhibits: \$5,039.60	Includes reasonable cost of documentary exhibits admitted into evidence at trial, including the provision of additional copies for the Court and opposing parties. <i>See</i> Guidelines. (BOC Ex. 6).	Agreed as to \$5,039.60 charge only
	Trial presentation: \$16,912.50	Trial presentation consultant costs associated with preparing electronic trial exhibits and courtroom preparation. (BOC Ex. 7).	Not agreed
	ESI: \$20,721.83	Taxable costs include the costs of converting electronic files to non-editable formats and other related costs fairly attributable to “copying.” <i>See Country Vintner of N.C., LLC v. E. & J. Gallo Winery, Inc.</i> , 718 F.3d 249, 260 (4th Cir. 2013); <i>see also</i> <i>BMG Rights Mgt. (US) LLC v. Cox Comm’cns, Inc.</i> , 234 F. Supp. 3d 760, 781–82 (E.D. Va. 2017), <i>vacated and remanded in part on other grounds</i> , 881 F.3d 293 (4th Cir. 2018). (BOC Exs 8 (invoices with highlighted taxable costs) & BOC 8A (spreadsheet prepared by counsel extracting and summing taxable costs from invoices).	Not agreed
Docket fees under 28 U.S.C. § 1923	\$40.00	\$20 for trial and \$2.50 for each of 8 deposition admitted into evidence (John Dewberry, Lockie Brown, Elizabeth Armstrong, George “Trey” Howard; Douglas Dewberry; John Freeman; David Groce; Kim Lavigne) (BOC Ex. 9, Dkt. 225).	Agreed as to all
Costs incident to taking depositions	\$108,340.15	The parties agreed to conduct all depositions virtually using video. (BOC Ex. 10).	Not agreed
Costs as directed on mandate of Court of Appeals	\$0.00	N/A	
Other Costs	\$0.00	N/A	
TOTAL	\$153,592.09		

Dated: April 29, 2022

Respectfully submitted,

DEWBERRY ENGINEERS INC.

By Counsel

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Counsel for Plaintiff Dewberry Engineers Inc.

CERTIFICATE OF SERVICE

I hereby certify that on April 29, 2022, I caused a copy of the foregoing to be electronically filed using the CM/ECF system, which will send notification to counsel of record of such filing by operation of the Court's electronic system. Parties may access this filing via the Court's electronic system.

By /s/ Arthur E. Schmalz